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The contribution of Yusuf Qaradawi to the development of Fiqh?

by Yasmin Hanani Mohd Safian



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The contribution of Yusuf Qaradawi to the development of Fiqh

by Yasmin Hanani Mohd Safian*

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Abstract

This paper analyses the contribution of a preeminent Muslim scholar, Yusuf Qaradawi to the religion, especially in the area of fiqh. His active role in disseminating the knowledge of fiqh began when he was 17 years old. His major works include The Lawful and Prohibited in Islam, Fiqh al-Zakat and Fiqh of Minority have greatly contributed to the progress of contemporary fiqh, putting him as one of the most influential Muslims in the world. He received many critical reviews over the years. Therefore, this paper analyses some of his fiqh works vis-à-vis the analytical reviews he received. It can be concluded that Qaradawi has made a considerable effort to exercise ijtihad corresponding to the current problems that is beneficial to Muslims worldwide. At the same time, he has called for a renewal in ijtihad process and an abandonment of religious extremism, a religious neglect and blind imitation in legal rulings.

I. Introduction

This paper will be analysing Yusuf Qaradawi fatwas¹ in addressing current *fiqh* issues. The fatwas will be divided into several sections including his methodology and approach in giving fatwas. In most of his publications, he is very much interested in reviving the spirit of *ijtihad* in fatwas. He believes that Muslim scholars should exercise the real *ijtihad* and at the same time, they must ensure the issued fatwa is workable and does not cause harm to the Muslim society.

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¹ Fatwa is religious ruling, the plural of fatwa is *fatawa* in Arabic. However, in this writing, the author has pluralised the term by adding 's' at the end of the word. The same is applied for other term such as *madhhab*.

1. Yusuf Qaradawis Person

Yusuf Qaradawi can be regarded as one of the most influential and preeminent Muslim scholars in the world. In 2009, he was ranked as the ninth most influential Muslims by The Royal Islamic Strategic Studies Centre. He was born in Nile Delta Village. At the age of 17, he started delivering his Friday sermon in the city of Tanta.² He was a part of the Azhari generation scholars who were impressed by the teachings of Hassan al-Banna.³ Qaradawi joined the Muslim Brotherhood in his teenage years. He is the most influential leader of the Muslim Brotherhood since Mahdi Akef stepped down in 2010. He was imprisoned several times due to his active involvements in the Muslim Brotherhood. His earliest publication in *fiqh* and Shariah entitled *The Lawful and the Prohibited* in Islam marked him as a 'rising star' for the future.⁴ However, this work is not free from criticism and reviews. He is also widely known for his Al Jazeera television program, *al-Shariah wal hayat* that is viewed by an estimated 60 million people worldwide.⁵ However, his long support of Muslim Brotherhood has harmed his standing among the wider Arab public and has made him the centre of criticism by the West. For instance, his controversial view in legitimizing suicide bombing as a form of self-defence was criticised vehemently by many of his opponents. In February 18, 2011, after a long exile in Qatar, he returned to Egypt and delivered a Friday sermon calling for the conquest of al-Aqsa Mosque. As a result, he has been labelled as the 'Egyptian Khomeini' and 'Muslim Pope'.⁶

2. His methodology and approach in Fiqh

In most of his publications, Qaradawi has called for middle way approach (*manhaj wasat*) in the Shariah and he is the founder of the centrist school of Islamic thought.⁷ In his *fiqh* works, he repeatedly condemns those who are *mutashaddidin* (extremists) and *mutasahilin* (religious neglect). He always chooses the middle position between these two situations.⁸ Unlike any other Muslim scholars, he opts not to judge explicitly an action by categorizing the act according to any of the five legal rulings (obligatory, recommended, prohibited, permissible, and detestable) as any other jurists. He is not judgemental in his responds to the public. In the midst of differences in *fiqh*, pluralism and sectarianism, he always calls for harmonization and unity in thought.⁹ Examining this centrist school, a research by Polka

² QARADAWI YUSUF, *Khutb As-Shaikh al-Qaradawi*, Cairo 1997, at 6-9.

³ QARADAWI YUSUF, *Kaifa Nataamul ma'a al-Turath*, Cairo 2004, at 5; QARADAWI, *supra* n. 2, at 6-9; WARREN DAVID H./GILMORE CHRISTINE, One nation under God? Yusuf al-Qaradawi's changing Fiqh of citizenship in the light of the Islamic legal tradition, *Contemporary Islam*, Vol. 8 (2013), Issue 3, at 219, retrieved from <http://ezproxy.usim.edu.my:2072/10.1007/s11562-013-0277-4>, last access date 7/6/2016.

⁴ WARREN/GILMORE, *supra* n. 3, at 219.

⁵ WARREN/GILMORE, *supra* n. 3, at 220.

⁶ EL DEEB SARAH/MICHAEL MAGGIE, Gadhafi's grip on Libya weakens, *Telegraph – Herald*, 22 February 2011, retrieved from <http://search.proquest.com/docview/853174876?accountid=33993>, last access date 7/6/2016; WARREN/GILMORE, *supra* n. 3, at 220; GANOR BOAZ, The Revolutions and US euphoria, *Jerusalem Post*, 28 February 2011, retrieved from <http://search.proquest.com/docview/854909188?accountid=33993>, last access date 7/6/2016; RUBIN BARRY, Egypt gets is Khomeini, *Jerusalem Post*, 21 February 2011, retrieved from <http://search.proquest.com/docview/853623830?accountid=33993>, last access date 7/6/2016.

⁷ HELFONT SAMUEL, *Yusuf al-Qaradawi, Islam and Modernity*, Tel Aviv 2009, at 41; WARREN/GILMORE, *supra* n. 3, at 220.

⁸ WARREN/GILMORE, *supra* n. 3, at 220; YUSUF, *supra* n. 3, at 30-32.

⁹ QARADAWI, *supra* n. 3, at 30-34.

concluded that Qaradawi has combined the two concepts of *salafiyya*; returning to the way of Islamic forefathers- and the concept of renewal, or *tajdid*.¹⁰ However, he does not embrace the method adopted by strict *salafi* and liberalists in understanding *fiqh*.

In addressing current Muslim problems, a Muslim scholar cannot set himself free from the classical legacy. According to Qaradawi, real Muslim scholars must exercise real *ijtihad* by examining the classical legacy, i.e the evidences. A scholar should not confine himself to one particular School of Law (*madhhab*) and abandon the rest. Even the weightiest evidence from any particular School of Law must be carefully examined and the suitability of the *fatwas* must be thoroughly assessed. One view might be the most appropriate in one place at one time, but it might not be suitable in other places at a different time. The renewal of Islamic jurisprudence must be taken into consideration to balance between the dictates of foundational texts and the true reality, and this method has been described as 'neo-salafi' on the grounds that it permits to circumvent Islamic traditions in a selective and pragmatic manner.¹¹ Qaradawi emphasises that the concept of *ijtihad* in *fiqh* must be clearly understood by all scholars. In other words, no School of Law is superior over another. There is no infallibility concept in *fiqh* except for the Prophet Muhammad. In this regard, he is greatly influenced by Hassan al-Banna's doctrine of *usul 'ishrin* (the 20 principles), promulgating that the concept of *'ismah* or infallibility is only for the Prophet. In addition, any *ijtihad* of a scholar cannot nullify other's *ijtihad*. Qaradawi is always open for discussions as he promotes talks and peaceful negotiations even with the enemies or those who are different from us. He proposes Muslim scholars to embrace the methodology of peaceful talk as promoted by the Quran.¹² Qaradawi's *wasatiyya* approach can be defined as middle way approach, moderation or justly balanced approach which is different from the ultra-conservative ways of Muhammad Abdul Wahhab. He can be regarded as "a follower of a liberal, flexible approach to religious law". Qaradawi even condemned the strict explicit interpretation of modern Zahiri in some of *fiqh* issues, for instance in the case of fiat money. Qaradawi's authority in fatwa rests in the legal tradition and not merely based on reasoning as practiced by other secular trained scholars. He always attempts to integrate any *fiqhi* issues into the Islamic tradition. This approach according to his critics, has the potential to be far more convincing and far-reaching to the public.¹³

II. Yusuf Qaradawi and *ijtihad*

In early 90s, Qaradawi has repeatedly called for *ijtihad* in these two areas; the area of business transaction and the area of science and medicine.¹⁴ These are the two modern areas that need extra attention by modern Muslim scholars. These problems have not existed in the past. For example, in the issue of paper money (fiat money), he has discussed the urgency to review the position of money whether it should be restricted to gold and silver, or should the interpretation of money be expanded to fiat money as well. He criticises the

¹⁰ HELFONT, *supra* n. 7, at 41-44.

¹¹ WARREN/GILMORE, *supra* n. 3, at 224.

¹² QARADAWI, *supra* n. 2, at 10-11.

¹³ WARREN/GILMORE, *supra* n. 3, at 224.

¹⁴ QARADAWI YUSUF, *Al-Ijtihad al-Muasir bayna al-indibat wal infirat*, Cairo 1994, at 7-9.

modern Zahiri who restricts money as *ribawi* item only on gold and silver. Thus, the group argues that fiat money is not zakatable. This new modern Zahiri, according to Qaradawi, only interprets textual evidence explicitly and failed to understand the real issue of *riba*. Fiat money is considered as *ribawi* item as gold and silver, hence carries the same legal effects and rulings.

As regards to poverty alleviation, Qaradawi in his publication, *Fiqh al-Zakat* has long called for better distribution of *zakat* collection to help the poor to grow.¹⁵ This book was derived from his PhD thesis in 1973. Mohamad El Gari, the Director for the Centre for Research in Islamic Economics in King Abdulaziz University described this work as “*still remains unparalleled in its comprehensiveness exposition and depth*” as compared to any other works in its field.¹⁶ *Zakat*, according to Qaradawi is a way to improve the state of a deserving person and at the same time purifying the wealth of the *zakat* payer. The *zakat* system has never been established before Islam. Comparing *zakat* with a tax system, Qaradawi contends that this system is a comprehensive system of public finance that is beneficial to the Muslim individual, community and nation. It can be argued that Qaradawi’s considerable efforts in reviving *fiqh zakat* were based on his deep rooted knowledge in the legal tradition and his ability to interpret the textual evidences explicitly and implicitly.

On the subject of medical and science issues, he has called for new *ijtihad*, for instance, in the issue of organ transplantation. In light of the available legal textual evidences, he carefully examined the permissibility of transplantation of an animal organ to a human patient, organ donation after one’s death, transplanting organ from a non-Muslim to a Muslim patient as well as blood donation. He has permitted the donation and the transplantation of organs from a living of a deceased person even to a non-Muslim patient in a critical situation provided that the act does not bring significant harm to the donor and those who have rights on the donors. He however, prohibits organ trading.¹⁷ One of his controversial fatwas is the permissibility of milk bank which was strongly opposed by traditional Muslim scholars especially in the Middle East. In 1983, responding to the question by the Islamic Organization for Medical Sciences, he permitted the establishment of milk bank on the basis of the urgent need of the baby. In this matter, he supports the opinion of classical scholars who interpret the Quranic verses (4:23), fostering sibling kinship only through direct breastfeeding. He argued that it is permissible to establish milk bank to feed premature babies whose mothers have died. His argument is due to the juristic reasoning that milk banks do not facilitate nursing directly from the breast, the absence (or doubt) of a donor record means that kinship is void, and that overall, the banks have a noble aim that should be considered for the good of society. In this matter, he gives preference to the view of Laith bin Saad, Daud bin Ali and some Zahiri scholars. International Islamic Fiqh Academy, for instance, prohibited the establishment of milk bank in the Muslim worlds. It took almost two decades before Qaradawi’s fatwa was fully supported, this time by the European Council for Fatwa and Research in 2004. The council argued that milk banks were now more widespread

¹⁵ For further reading, see QARADAWI YUSUF, *Fiqh al-Zakat*, Beirut 1999.

¹⁶ For further reading, see also the translation of *Fiqh al-Zakat* by Monzer Kahf, Jeddah 2000.

¹⁷ Malaysian Ministry of Health, *Organ Transplantation from Islamic Perspective*, Kuala Lumpur 2011, at 26.

and that having access to milk through these banks was of great concern for Muslims minorities living in “Western” countries, something the previous ruling overlooked.¹⁸

1. Qaradawi: The importance of mastering classical fiqh texts

In addressing current *fiqhi* situation, he stresses that the solution for contemporary *fiqh* cannot be discussed separately from *turath al fiqhi* (the legacy of Islamic law). This means, modern scholar must be able to understand the wisdom behind the lengthy *fiqhi* discussions in *classical fiqh* books. He admires the earlier scholars who made substantial efforts on leaving a great *fiqh* legacy for the next generation. However, the later generation, in his opinion, tends to forget this legacy. This means, the later generation has failed to understand the wisdom that has been left by earlier generations of scholars. Each *fiqh* problem should be carefully and thoroughly examined as every case is unique and different. However, he admits that the process of *ijtihad* has never been easy as there are many differences or pluralism especially when the texts contain more than one meaning that are open for discussion. At the same time, there are many cynical critics towards modern Muslim scholars questioning the scholars’ capability to become a real *mujtahid*. The critics argue that many Muslim scholars are not competent and still lacking in exercising their *ijtihad*. Despite this claim, Qaradawi still persistently believes that *ijtihad* can be exercised by modern Muslim scholars. The scholars can utilise *ijtihad* and show their mastery skills in the areas that they are familiar with.

Despite the strict requirements of *ijtihad*, he argues that *ijtihad* processes today are much easier as printing materials are readily available as compared to the past where the *mujtahid* had to travel everywhere to gather information, collecting and validating evidences and meeting great Sheikhs. He admires continuous efforts of Muhammad `Abduh, Rashid Rida, `Abdul Majid Salim, Mahmud Shaltut, Tahir `Ashur, Faraj Sanhuri and Muhammad Abu Zahrah to revive Islam for the benefit of mankind. Addressing the current pressing needs of the Muslim society, he is of the opinion that the obligation to exercise *ijtihad* nowadays is not only permissible but is an obligation. He also opposes the idea of closing the gate of *ijtihad*. In addition, a scholar should not confine himself to one specific School of Law and a scholar should not be only a follower. As regards to renewal of the some religious issues, he shares the same opinion as Mustafa al Maraghi, the late sheikh of Al-Azhar who criticised people who opposed and rejected any attempt of *tajdid* in Muslim personal codes in Egypt.¹⁹

2. Qaradawi: Between preponderance *ijtihad* and innovative *ijtihad*

In addressing current *fiqhi* issues, Qaradawi has proposed two approaches of *ijtihad* namely preponderance *ijtihad* and innovative *ijtihad*. Preponderance *ijtihad* according to Qaradawi is where a scholar chooses the strongest or weightiest view of the past after careful

¹⁸ Patheos, More than Breast Friends: Kinship and Muslim Milk Banks, 26 March 2013, retrieved from <http://www.patheos.com/blogs/mmw/2013/03/more-than-breast-friends-kinship-and-muslim-milk-banks/>, last access date 7/6/2016.

¹⁹ QARADAWI, *supra* n. 14, at 15-16.

consideration and thorough examination.²⁰ The first method is by choosing the most sensible and weightiest opinion. It is called *tarjih*, preponderance, weighing conflicting or incongruent evidence. In understanding the revealed evidences, the scholars were trained to deal with all conceivable possibilities of conflict in textual evidence. He is against the practice of selecting only a few fatwas within certain specific *madhhab*. He argues that the real *tarjih* must take place in the fatwa making process. *Tarjih* is an effort in examining all available views across all *madhhabs*; by examining the evidences and avoiding *taqlid* or following certain *madhhab* blindly. He also objects the practice of selecting and giving preference to a fatwa without examining the evidence. This is what he called as *taqlid* which according to him as accepting the strongest view without verifying the validity of the evidences. Meanwhile, according to him a *talfiq* is accepting a view without looking at the evidences. In selecting the most appropriate view, he said the selected fatwas must comply with certain conditions; namely the closest view to those of modern experts', the easiest for society to adapt to; and at the same time fulfilling the objectives of Shariah and preventing from potential harm.

The society must be taught that differences in *fiqh* are inevitable and do not cause harm as long as Muslims can tolerate each other. The fatwas can differ according to locations, time and people. He also tried to harmonize between the classical fatwas and the current research findings especially in the area where the Muslim scholars are not familiar with, such as medicine, physics and other science fields. He gave a few examples such as the case of wine. The old schools only restricted the ruling of *khamr* to wine, a beverage produced from grapes, whereas the latter scholars expanded the prohibition on all alcoholic beverages that carry similar effects of intoxicants. Similarly, in the case of determining the minimum and maximum duration of pregnancy, the classical *fiqh* indicates 7 years as the maximum period for pregnancy. This opinion, according to Qaradawi is not suitable due to the availability of more accurate medical research that proves the maximum period of pregnancy is only 9 months. We can conclude here that the scholars must be well informed regarding current issues even though the previous fatwa has covered it textually. Past *ijtihadic* matters that were justified based on custom, public interest or any juristic tools are open for review for modern interpretation. Similarly, in the case of determining excessive menstrual blood for a woman that exceeds her normal length of period, the principle of '*urf*' (custom) can be observed by looking at difference experience among Muslim women.

Meanwhile, innovative *ijtihad* is a serious effort to derive ruling for new current issues that are not covered textually in the past. In this regard, Qaradawi suggests that modern Muslim scholars must be able to venture this type of *ijtihad*. This *ijtihad* is riskier than the previous method, as the area of concern is left uncovered textually. The process of *ijtihad* will be lengthy, exhausting and difficult to persuade the public to accept. *Ijtihad* gave an example of zakat on a person who rented a piece of land. According to Qaradawi, the person who works on the rented land has to pay zakat from the revenue or crops of the rented agricultural land. At the same time, the landowner has to pay zakat on the rental fee. This view however contradicts the established view of Hanafiah where zakat is only obligatory on the land owner.

²⁰ QARADAWI, *supra* n. 14, at 19-28.

Despite the two specific methods of *ijtihad* mentioned above, Qaradawi affirms the possibility to combine these two methods when there is a need to do so, for instance in the issue of obligatory bequest and abortion.

Qaradawi reminds Muslim scholars of several pitfalls in the process of *ijtihad*. Firstly, an abandonment of textual evidences due to ignorance and forgetfulness. *Mujtahid* should be well-versed in verifying all legal textual evidences in the Quran and Sunnah. These legal evidences serve as the premier sources of ruling. Ignorance of the Quranic injunctions and hadith traditions leads to misinterpretation of the evidence, and even worse, it will lead to deviation from the true meaning of the textual sources. The wrong understanding of a *dalil* (textual evidence) is normally attributed to hasty efforts in issuing a fatwa. A wise scholar will never rush in making a fatwa, instead he will examine the relevant evidences with extra consideration and careful thought. Qaradawi has given an example of wrong deviation in textual interpretation; in the case of cutting off the hand of a thief and whipping an adulterer. Some people translated the Quranic verses regarding the punishment for these sinful acts as merely permissible, a non-obligatory punishment. The group suggests a new interpretation of the verses by giving the wisdom to the ruler (*wali al-amr*) to establish new means of punishment which is more appropriate. In this regard, it gives more room for Shariah to be adapted to social needs according to the liberalists.

The other pitfall highlighted by Qaradawi is an abandonment of *ijma'* or consensus such as the case of permitting a Muslim woman to marry a man of the book. He also warns about exercising wrong *qiyas* (analogy). For example, in the case of imposing interest on the people by the state, the group promotes its permissibility by supporting their argument base on a saying that there *riba* does not occur between a father and son. For Qaradawi, the relation between a father and son is not analogous to the relation between the state and the people, hence adapting *qiyas* in this case is inappropriate.

Other pitfalls that Muslim scholars should avoid are ignorance about the reality of people and failure to understand the reality of Muslim society leading to the issuance of unsuitable *fatwas*. In addition, the scholars must comprehend clearly the notion of public interest. Public interest, as practiced by the Khulafa, has never violated the Quranic and Hadith texts. In other words, an interest that contradicts the textual evidence is void. In modern days, some people have overrated a public interest, prioritising it over an established and consensus of the jurists. A few examples of void interest; the practice of *riba* in conventional banks, the prohibition of polygamous marriage in Tunisia and the distribution of equal portion of inheritance among sons and daughters.

3. Qaradawi – facing new challenges

Calling for reforms in the science of issuing fatwas, Qaradawi persistently advocates the importance of embracing the original doctrine of Shariah. The textual evidences should be read correctly as understood by established prominent classical scholars, and at the same time he realises the importance of being pragmatic. This means, the laws which are clearly outlined in the Quran and hadith, and agreed upon by all scholars must be set free from *ijtihad*. *Ijtihad* can only be exercised in new issues that are not covered textually or when

there are differences in interpreting relevant evidence. Scholars must be able to distinguish between the non-amended fixed laws, and the laws that may change according to different situations and locations. Rigid interpretation must be avoided for instance, in addressing the pressing needs of Muslim communities living in the West. Their needs and problems are unique and should be treated differently from their Muslim counterparts in Muslim countries. In this sense, Qaradawi has responded to various problems faced by Muslims in non-Muslim majority countries. The uniqueness of this minority Muslim society has called for a special new legal discipline and should focus more on devising exceptional rulings pertaining to their unique circumstances.²¹ Qaradawi has pioneered this effort by establishing *fiqh* for the minority.²² However, some have doubted its effectiveness and argued it will take years to realise. Conversely, how to measure the *fiqh* that can support peaceful co-existence among the Muslims and non-Muslims within non-Muslim societies?

The main challenge is how to develop a concrete methodology and sources of *fiqh* of the minority to achieve its goal and at the same time do not depart from traditional juristic framework and style²³. Qaradawi has called for sound contemporary *ijtihad*. The concept of easiness, removing harm and public interest have been widely used in Qaradawi's approach of *fiqh* of minority without sacrificing the fundamental teaching of Islam. However, this approach is regarded by some critics as a temporary short term solution²⁴. In addition, Qaradawi also promotes the concept of *tadarruj* (gradual implementation of law) that can be utilised to lessen the burden of practicing a strict rule. In defining his methodology, Qaradawi has presented his mastery sources by quoting Quran, the hadith and legal texts in a simple language understandable by the majority of Muslim.

In many situations, Qaradawi insists the original rules and the fundamental teachings must remain and one should try their best to perform the original rule before resorting to the facility (*rukhsah*). In responding to the case of the prohibition of hijab in France for instance, he gave a wise answer without simply jumping directly to the rule of *darura* (necessity excuse). Hijab, according to him, must be worn and Muslim women's right should be respected. In this sense, the freedom to practice one's belief is clearly in line with the international convention of human rights. He further argues that hijab is not merely a religious symbol unlike the Christian cross or Star of David. A religious symbol according to him, does not function like a hijab does, nor is it an advertisement like the cross, or Star of David. He claims that a hijab is worn to protect a woman's dignity. In addition, he has elaborated the notion of religious tolerance as permitting one to practice her/his religious obligation, and not to compel her/him to commit what the religion has prohibited. Meanwhile, the highest level of religious tolerance, he added, is accepting what is permissible in one's religion.

²¹ PARRAY TAUSEEF AHMAD, The legal methodology of fiqh al-aqalliyyat and its critics: An Analytical study, Journal of Muslim Minority Affairs, Vol. 32 (2012), Issue 1, at 88-107, DOI: 10.1080/13602004.2012.665624, last accessed 7/6/2016.

²² For further reading refer to QARADAWI YUSUF, Fi fiqh al-Aqalliyat al-Muslimah, Cairo 2005; QARADAWI YUSUF, Fiqh al-Daulah fi al-Islam, Cairo 1997.

²³ HASSAN SAID FARES, Fiqh al-Aqalliyyat: History, Development, and Progress, New York 2013, at 7-10.

²⁴ NAJIMDEEN BAKARE, From the *Fiqh* of Minority to Cosmopolitan *Fiqh*, An Analysis, Policy Perspectives, Vol. 11 (2014), No. 1, at 38.

Despite Qaradawi's considerable effort to establish the special *fiqh* for Muslim minority, a more acclimatized and Westernised Muslim like Tariq Ramadan scorns this, rather finds it appealing.²⁵ That is why Najimdeen in his article "From the *Fiqh* of Minority to Cosmopolitan *Fiqh* An Analysis" proposes for a cosmopolitan *fiqh* to replace *fiqh* of minority. A cosmopolitan or dynamic *fiqh* according to Najimdeen, drives the Muslims back to the pristine, non-fanatical and non-sectarian epoch of flexibility, where Muslims were undivided along the lines of differences in Madhhabs. Quite necessarily, a cosmopolitan *fiqh* will bring forth the reunification of the Madhhabs. Hence, instead of minority *fiqh*, a cosmopolitan *fiqh* that resonates with all Muslims taking abode in *dar al-amr* (abode of solace) should logically be distinctive from what actually manifest in *dar al-islam* (abode of Islam). Najimdeen is of the opinion that Qaradawi should transcend finding solutions for the Western or European Muslims, rather, concerted efforts should be tailored at developing a comprehensive, dynamic and yet cosmopolitan *fiqh* that will address the issues faced by Muslims regardless of their locations. A cosmopolitan *fiqh* according to Najimdeen, delineates the universal value of Islam as opposed to the narrow context of minority *fiqh*. Najimdeen gave an example of the story of Malik bin Anas who rejected the idea of Caliph al-Mansur to codify his hadith compilation, making it a sole authoritative status and binding document for the people. However, examining Najimdeen's idea of promoting cosmopolitan *fiqh* that calls for elimination of boundaries between *madhhab*, we can however conclude that this idea is not new to Qaradawi himself. He has elaborated the issue comprehensively in his book *al-Ijtihad al-mu'asir bayna al-indibat wa al-infirat*. Qaradawi scorns the practise of blind imitation to one specific *madhhab* or choosing one's best opinion without justifying and examining the *dalils* (legal evidence).

III. Conclusion

It can be concluded that the intellectual rigor surrounding Qaradawi's fiqhi discussion has received substantial intellectual appraisal although not exculpable from criticisms. He strongly advocates for *ijtihad* and *tajdid* (renewal) in religious matters that is flexible in nature. He proposes to adopt preponderance *ijtihad* and innovative *ijtihad* or a combination of both. In exercising real *ijtihad*, a *mujtahid* must be well versed in legal evidences, making a reality check in every fatwa issued, be extra careful with religious extremism and religious neglect, and at the same time weighing the best opinion that is closest to the society and the easiest for the people. His remarkable contribution in Shariah and *fiqh* has been acknowledged by many scholars and intellectuals, placing him as one of the most influential persons in the Muslim world. Shariah as a way of life, should not be seen as a burden to human kind, rather should be pictured as a bless to the whole universe.

²⁵ NAJIMDEEN, *supra* n. 24, at 38.